

Department of the Air Force, DoD

§ 884.13

process directing or authorizing the requesting authorities to take the member into custody. Also, include reports of investigation and other materials concerning the background of the case if reasonably available.

(4) Indicate whether the requesting authorities will secure the member's lawful delivery or extradition from the port of entry to the requesting jurisdiction, whether they will do so at their own expense, and whether they will notify HQ AFLSA/JAJM of the member's release from custody and of the ultimate disposition of the matter.

(5) Any U.S. attorney or assistant U.S. attorney, governor or other duly authorized officer of a requesting state or local jurisdiction, or the judge, magistrate, or clerk of a court of competent jurisdiction must sign the request.

(b) Civilian authorities making requests for return of members to the United States for delivery to them should direct their request to HQ AFLSA/JAJM. If another Air Force agency or official receives the request, immediately send it to HQ AFLSA/JAJM.

(c) Upon receipt of a request, HQ AFLSA/JAJM promptly notifies the member's commander, who consults with the servicing staff judge advocate. The commander provides a report of relevant facts and circumstances and recommended disposition of the request through command channels to HQ AFLSA/JAJM. If the commander recommends denial of the request or a delay in processing or approving it, the commander provides the information specified in § 884.12(a)(1) through (a)(4) or § 884.13(a)(1) through (a)(4).

(d) After proper authority has approved a request for return of a member to the United States for delivery to civilian authorities, HQ AFLSA/JAJM notifies AFPC of the decision to return the member to the United States. AFPC issues permanent change of station (PCS) orders, assigning the member to an installation as close to the requesting jurisdiction as possible, considering the needs of the Air Force for personnel in the member's rank and AFSC.

(e) HQ AFLSA/JAJM notifies requesting authorities of the member's

new assignment, port of entry into the United States and estimated time of arrival. Except during unusual circumstances, HQ AFLSA/JAJM notifies requesting authorities at least 10 days before the member's return.

§ 884.12 Delays in returning members to the United States.

(a) On a request to return a member to the United States for delivery to civilian authorities, TJAG may grant a delay of not more than 90 days in completing action when one or more of the following are present:

(1) Efforts are in progress to resolve the controversy to the satisfaction of the requesting authorities without the member's return to the United States.

(2) Additional time is required to permit the member to provide satisfactory evidence of legal efforts to resist the request or to show legitimate cause for noncompliance.

(3) Additional time is required to permit the commander to determine the specific effect of the loss of the member on command mission and readiness or to determine pertinent facts and circumstances relating to any international agreement, foreign judicial proceeding, DoD, Air Force, or other military department investigation or court-martial affecting the member.

(4) Other unusual facts or circumstances warrant delay.

(b) AFLSA/JAJM promptly reports all delays in cases falling under AFPD 51-10,⁵ paragraph 3, through SAF/GC and SAF/MI or USD/P&R and to DoD/GC.

(c) Delays in excess of 90 days are not authorized in cases falling under AFPD 51-10, paragraph 3, unless approved by USD/P&R.

§ 884.13 Denials of a request for return of a member to the United States.

(a) A request for return of a member to the United States for delivery to civilian authorities may be denied when:

(1) The member's return would have an adverse impact on operational readiness or mission requirements.

(2) An international agreement precludes the member's return.

⁵ See footnote in § 884.1.

(3) The member is the subject of foreign judicial proceedings, court-martial, or a DoD, Air Force, or other military department investigation.

(4) The member showed satisfactory evidence of legal efforts to resist the request or other legitimate cause for noncompliance or when other unusual facts or circumstances warrant a denial.

(b) Commanders promptly send to HQ AFLSA/JAJM information supporting a determination that denial may be appropriate. In cases warranting denial, TJAG promptly sends a recommendation and supporting documentation, through SAF/GC and SAF/MI, to USD/P&R for decision.

(c) The fact that a recommendation for denial is pending does not by itself authorize noncompliance or a delay in compliance with any provision of this section, but TJAG may consider a pending request for denial in determining whether to grant a delay.

§ 884.14 Compliance with court orders by civilian employees and family members.

(a) The Air Force expects civilian employees and family members to comply with orders issued by Federal or state court of competent jurisdiction, unless noncompliance is legally justified. Air Force civilian employees who persist in noncompliance are subject to adverse administrative action, including separation for cause as provided in AFI 36-704, Discipline and Adverse Actions (PA).⁶

(b) Air Force officials ensure that civilian personnel and family members do not use assignments or officially sponsored residence outside the United States to avoid compliance with valid orders of Federal or state court of competent jurisdiction.

§ 884.15 Procedures involving a request by Federal or state authorities for custody of an overseas civilian employee or a command-sponsored family member.

(a) The procedures of this section apply to civilian employees, including nonappropriated fund instrumentality (NAFI) employees, who are assigned outside the United States, and to com-

mand-sponsored family members residing outside the United States.

(b) This section applies only when Air Force authorities receive a request for assistance from Federal, state, or local authorities involving noncompliance with a court order and when noncompliance is the subject of any of the following: An arrest warrant; indictment, information, or other document used in the jurisdiction to prefer charges; or a contempt citation involving the unlawful or contemptuous removal of a child from the jurisdiction of the court or the lawful custody of a parent or third party.

(c) To the maximum extent possible, consistent with provisions of international agreements and foreign court orders, DoD and military department investigations, and judicial proceedings, commanders comply with requests for assistance. After exhausting all reasonable efforts to resolve the matter without the employee or family member returning to the United States, the commander shall strongly encourage the individual to comply. The commander shall consider imposing disciplinary action (including removal) against the employee or withdrawing command sponsorship of the family member, as appropriate, for failure to comply.

§ 884.16 Reporting requests for assistance and action.

The commander or designee promptly reports each request for assistance and intended action by message. Send reports to HQ AFLSA/JAJM, which submits required reports, through channels, to USD/P&R. HQ AFLSA/JAJM conducts all communications with requesters.

§ 884.17 Commander's instruction letter to member.

Subject: Instructions in Case of Release on Bail or Personal Recognizance

1. You are being delivered to the custody of civilian authorities, pursuant to the provisions of AFI 51-1001. This action does not constitute a discharge from the Air Force. In the event that you are released from civilian custody on bail or on your own recognizance, report immediately in person or by telephone to the (Air Force unit, activity, or recruiting office) for further instructions. Advise the commander of your name, rank,

⁶See footnote in § 884.1